

REMARKS

MAY 7, 2008 INTERVIEW SUMMARY: In an interview held on May 7, applicants' representative discussed the operation of the claimed invention and distinguished the reference Oncken and explained that this reference taught away from the claimed invention. The examiner indicated that he was considering the possibility of a rejection based on the combination of Oncken and Regulation D. Applicants' representative discussed the submission of a declaration on commercial success.

MAY 20, 2008 INTERVIEW SUMMARY: In the interview held on May 20, applicants' representatives and Examiner Wright discussed the submission of two new sets of claims based on independent claims 49 and 50 (now claim 64). The differences of these claims relative to claim 34 were discussed. Applicants' representatives noted that the filing of a declaration on commercial success would be forthcoming for claims 49 and 50 (now claim 64).

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Independent claims 34 and 42 have been amended to add the language --or having deposited— after the operation of “depositing” in order to cover the operation of facilitating the deposit via another entity. Additionally, claim 34 has been amended to correct a semantic error in element (e). The claims depending on independent claims 34 and 42 have not been amended. A new claim set 49-63 has been added. Claim 49 tracks claim 34, except for the changes shown below relative to claim 34. Likewise, a new claim set 64-78 has been added. Claim 64 tracks claim 34, except for the changes shown below relative to claim 34. The dependent claims 50-63 and 65-78 track dependent claims 34-48 except for the changes made to conform these claims to the amendments made to their respective independent claims relative to claim 34, and to add further clarifications/revisions in the context of these independent claims. Note that the term “banking institution” as used in these claims is to be

interpreted broadly and includes an organization which comprises at least a bank, and may include other financial institutions such as a broker dealer within its infrastructure. See applicants' specification at page 2, lines 22-31 and page 3, lines 20-25.

As set forth in the accompanying declaration of Mr. Bruce Bent II, one of the inventors of the present invention, it is contemplated that the present invention could be implemented in different of ways.

One way in which the present invention may be implemented is where the client maintains an account in the client's name in the infrastructure of a first banking institution, and funds from the client's account are transferred to an FDIC-insured, interest-bearing aggregated account in the infrastructure of the first banking institution until the client's balance of funds in that aggregated account equals or exceeds a specified amount. Client funds in excess of this specified amount are transferred to an FDIC-insured, interest-bearing aggregated account held at a one of a plurality of different banking institution. Independent claim 34, for example, would cover this type of implementation.

A second way of implementing this invention is by the client holding an account with a self clearing broker dealer that is part of the infrastructure of a first banking institution. Deposit transactions for this configuration are covered, for example, by independent claim 49. Funds from the client's broker dealer account are transferred to an FDIC-insured, interest-bearing aggregated account held in an affiliated bank of the first banking institution until the client's balance of funds in that aggregated account equals or exceeds a specified amount. Client funds in excess of this specified amount are transferred to an FDIC-insured, interest-bearing aggregated account held at a bank within the infrastructure of a different banking institution. See page 2, lines 22-31 and page 3, lines 20-25 in Applicants' filed specification, which pages note that accounts can originate from a variety of sources including brokerage firms. Claim 49 is the same as claim 34 except for the changes shown below.

49. (New) A computer-implemented method for managing funds for a plurality of client accounts for a plurality of clients whose funds were accepted for deposit in respective client accounts held in the names of the respective clients at a first banking institution that includes a first bank in its infrastructure, the method comprising:

(a) maintaining a plurality of FDIC-insured and interest-bearing aggregated deposit accounts, each aggregated deposit account held in a different respective bank of ~~[[at]]~~ a different respective banking institution including an FDIC-insured and interest-bearing aggregated deposit account held at the first bank in the first banking institution;

(b) maintaining or having maintained an electronic database, on one or more computers, containing information on funds held by each client in the plurality of aggregated deposit accounts;

(c) administering the aggregated deposit accounts to transfer or have transferred client funds that had been accepted into respective client accounts held in the names of the respective clients at the first banking institution to the aggregated deposit account at the first bank ~~[[ing institution]]~~ except that for clients with a balance of funds in the aggregated deposit account at the first bank ~~[[ing institution]]~~ that equal or exceed a specified amount depositing or having deposited additional funds of that client to one of the aggregated deposit accounts in a-one of the different banks in one of the different banking institutions;

(d) withdrawing or having withdrawn client funds from the FDIC-insured and interest-bearing aggregated deposit account held at the first bank ~~[[ing institution]]~~ using a method of withdrawal that allows an unlimited number of transactions per month while preserving an insured and interest-bearing status of the FDIC-insured and interest-bearing aggregated deposit account held at the first bank ~~[[ing institution]]~~; and

(e) updating or having updated the electronic database based on the transfers to and withdrawals in the plurality of aggregated deposit ~~account~~ accounts.

A third way of implementing this invention is by the client placing funds with a broker dealer that is not self clearing or chooses not to self clear but is part of the infrastructure of the first banking institution. Deposit transactions for this configuration are covered, for example, by independent claim 64. Client funds are forwarded via the broker dealer in the first banking institution infrastructure to an account held at a different broker dealer that is self clearing. Client funds from this different broker dealer account are then transferred to an FDIC-insured, interest-bearing aggregated account held in an affiliated bank within the first banking institution until the client's balance of funds in that aggregated account equals or exceeds a specified amount. Client funds in excess of this specified amount are transferred to an FDIC-insured, interest-bearing aggregated account held in a bank within a different banking institution. See page 2, lines 22-31 and page 3, lines 20-25 in Applicants'

filed specification, which pages note that accounts can originate from a variety of sources including brokerage firms. Claim 64 is the same as claim 34 except for the changes shown below.

64. (New) A computer-implemented method for managing funds for a plurality of client accounts for a plurality of clients of a first banking institution that includes a first bank in its infrastructure, wherein the respective client funds whose funds were accepted for deposit in respective client accounts held in the names of the respective clients ~~at a first banking institution~~, the method comprising:

(a) maintaining a plurality of FDIC-insured and interest-bearing aggregated deposit accounts, each aggregated deposit account held in a different respective bank of [[at]] a different respective banking institution including an FDIC-insured and interest-bearing aggregated deposit account held at the first bank in the first banking institution;

(b) maintaining or having maintained an electronic database, on one or more computers, containing information on funds held by each client in the plurality of aggregated deposit accounts;

(c) administering the aggregated deposit accounts to transfer or have transferred client funds that had been accepted into respective client accounts held in the names of the respective clients at the first banking institution to the aggregated deposit account at the first bank ~~[[ing institution]]~~ except that for clients with a balance of funds in the aggregated deposit account at the first bank ~~[[ing institution]]~~ that equal or exceed a specified amount depositing or having deposited additional funds of that client to one of the aggregated deposit accounts in a one of the different banks in one of the different banking institutions;

(d) withdrawing or having withdrawn client funds from the FDIC-insured and interest-bearing aggregated deposit account held at the first bank ~~[[ing institution]]~~ using a method of withdrawal that allows an unlimited number of transactions per month while preserving an insured and interest-bearing status of the FDIC-insured and interest-bearing aggregated deposit account held at the first bank ~~[[ing institution]]~~; and

(e) updating or having updated the electronic database based on the transfers to and withdrawals in the plurality of aggregated deposit ~~account~~accounts.

Thus, the fundamental operation of the invention is the same in these claims, but the client account is held with different entities.

Applicants are submitting herewith a Declaration from Mr. Bruce Bent II, Vice Chairman and President of Reserve Management Corporation on commercial success and long felt need for claims 49, 57, 64 and 72. Claims 34 and 42 have not yet been implemented with all of their claim limitations.

Applicants note that a primary reference in the last Office Action was Oncken, U.S. Patent No. 4,985,833. Examiner Wright had stated in an interview with applicants' representative on February 5, 2008, that he was concerned with whether it might be obvious to modify the Oncken multi-bank operation in view of Regulation D in order to obtain applicants' claimed invention. However, one of ordinary skill would be led away from the claimed configuration using these two references.

Oncken discloses a managing financial institution 20 (Fig. 1B), operating under a formal agency agreement with depositors (column 5, lines 30-32). When it is desired to obtain federal insurance and interest for accounts over \$100K, the Oncken system is utilized by the managing bank 20. The Oncken system, when operated, is programmed to: disperse fund amounts of less than \$100K for a given customer to one or more of the different financial institutions 24 and 26 (subject to the 6 withdrawal limit to the discussed below). See column 5, lines 32-46, column 6, lines 1-6, column 8, lines 1-20, and column 7, line 66 – column 8, line 32.

This teaching by Oncken of a programmed system relating to multiple banks and insurance for accounts over \$100K is subject in Oncken to a mandatory requirement that after five withdrawals from the account in the bank, that a sixth withdrawal be initiated automatically by Oncken's software to move all of the funds in that account to an interest-bearing account at another bank, in order to remain in compliance with banking Regulation D.

Thus, Oncken is a direct teach-away from the claimed invention and could not be modified with anything that contradicts that explicit teach-away. Specifically, Oncken teaches that in order to remain in compliance with Regulation D, the entire balance of funds in a given account must be moved to an interest-bearing account at another bank after 5 withdrawals have been made in a month. See column 4, lines 25-29, and column 8, lines 33-

42. Thus, the money is not kept on the balance sheet for any Fig. 1C bank after five withdrawals have been made. Accordingly, Oncken cannot accumulate funds at a given one of these Fig. 1C banks and at the same time permit an unlimited number of withdrawals per month from this given bank while preserving an insured and interest-bearing status of the FDIC-insured and interest-bearing aggregated deposit account held at this given bank. Note that Oncken does not appear to have a system that applies to a first bank, i.e., the bank 20 of Fig. 1B. In this respect, Oncken teaches that when its system is utilized (see column 5, lines 37-42, column 8, lines 7-8,), it determines if there are excess funds in an account, and then moves those excess funds into one or more of the banks in Fig. 1C and makes them subject to the 6 withdrawal programming.

Note that Regulation D is a complex regulation. Different software systems can be built based on different part of Regulation D. It is evident that from the date of Oncken's parent application filing of August 24, 1988 until applicant's filing in February 2002, no one developed or even proposed a multi-bank system that retained client funds on the balance sheet of the banking institution associated with the client, and at the same time obtained FDIC insurance for large client accounts, obtained interest on those accounts, and at the same time permitted an unlimited number of withdrawals in a month from the FDIC-insured and interest bearing account in the bank associated with the client.

The Declaration of Mr. Bent states that even a single bank implementation, that did not have FDIC insurance over \$100,000 and that did not require the complex software for controlling the transfer between and among multiple banks and the complex recording-keeping required for multiple banks, achieved commercial success, beginning with that first implementation with Frontier Bank in 2000. See Exhibit D of Applicants' October 5, 2007 Amendment.

Mr. Bent provides evidence of commercial success beginning soon after introduction of the product of \$367 million in one instance [BROKER DEALER A], \$7 Billion in another instance [BROKER DEALER B] prior to a recent restructuring of that entity, and in another instance, \$146 million in one correspondent broker dealer and \$250 with another correspondent broker dealer using self clearing BROKER DEALER C. Mr. Bent's

Declaration also discusses long felt need based on the fact that from the date of Oncken's parent application filing of August 24, 1988 until applicant's filing in February 2002, no one developed or even proposed a multi-bank system that retained client funds on the balance sheet of the bank associated with the client, and at the same time obtained FDIC insurance for large client accounts, obtained interest on those accounts, and at the same time permitted an unlimited number of withdrawals in a month from the FDIC-insured and interest bearing account in the bank associated with the client. (See Paragraph 15.)

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

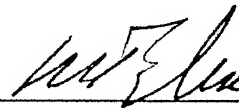
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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